



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VI

ALLIED BANK TOWER AT FOUNTAIN PLACE

1445 ROSS AVENUE

DALLAS, TEXAS 75202

March 17, 1988

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (P 661 406 887)

REPLY TO: 6W-PS

Mr. Walter F. Ekstrom, Vice President
Arizona Public Service Company
P.O. Box 21666
Phoenix, Arizona 85036

Re: NPDES Permit No. TX0000019-Arizona Public Service Company

Dear Mr. Ekstrom:

Your National Pollutant Discharge Elimination System (NPDES) permit is enclosed. The draft permit which we previously sent you received no comments. The effective date and the expiration date of this final permit appears on the cover page.

Should you have any questions concerning the permit, please feel free to contact the Permits Branch at the above address or telephone (214) 655-7190.

Enclosure

cc: (with permit)

TWC



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PART III
STANDARD CONDITIONS FOR NPDES PERMITS

SECTION A. GENERAL CONDITIONS

1. Introduction

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable CFR regulations.

2. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Toxic Pollutants

- a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.
- b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

8. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act or applicable CFR regulations which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

10. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

11. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

SECTION B. PROPER OPERATION AND MAINTENANCE

1. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain

all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. Bypass of Treatment Facilities

a. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.b and 4.c.

b. Notice

- (1) **Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) **Unanticipated bypass.** The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

c. Prohibition of bypass

- (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (c) The permittee submitted notices as required by Part III.B.4.b.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. Upset Conditions

a. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. **Burden of proof.** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

SECTION C. MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. Record Contents

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

6. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than $\pm 10\%$ from true discharge rates throughout the range of expected discharge volumes. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references:

- a. "A Guide to Methods and Standards for the Measurement of Water Flow", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 97 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by SD Catalog No. C13.10-421).
- b. "Water Measurement Manual", U.S. Department of Interior, Bureau of Reclamation, Second Edition, Revised Reprint, 1974, 327 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by Catalog No. 127.19/2:W29/2, Stock No. 5/N24003-0027).
- c. "Flow Measurement in Open Channels and Closed Conduits", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Available in paper copy or microfiche from National Technical Information Service (NTIS), Springfield, VA 22151. Order by NTIS No. PB-273535/55T).
- d. "NPDES Compliance Sampling Manual", U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-51, 1977, 140 pp. (Available from the General Services Administration (GSA), Centralized Mailing Lists Services, Building 41, Denver Federal Center, Denver, CO 80225).

satisfy one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,

- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR Part 122.42(a) (1).

b. Municipal Permits

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Discharge Monitoring Reports

Monitoring results must be reported on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR to the EPA with copies of the DMR to the State Agency. Duplicate copies of the DMRs, signed and certified as required by Part III.D. 11 and all other reports required by Part III.D shall be submitted to the Director and to the State (if applicable) at the following address(es):

Water Management Division
Enforcement Branch (6W-E)
U.S. Environmental Protection
Agency, Region VI
First Interstate Bank Tower
1445 Ross Avenue
Dallas, Texas 75202-2733

Oklahoma (Industrial Permits)
Director
Oklahoma Water Resources Board
P.O. Box 53585
Oklahoma City, Oklahoma 73152

New Mexico:

Program Manager
Surface Water Section
Surface Water Quality Bureau
New Mexico Environmental
Improvement Division
P.O. Box 968
Santa Fe, New Mexico 87504-0968

Louisiana:

Assistant Secretary for Water
Water Pollution Control
Division
Louisiana Department of
Environmental Quality
P.O. Box 44091
Baton Rouge, Louisiana 70804-4091

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

a. Industrial Permits

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (1) The alteration or addition to a permitted facility may

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

7. Twenty-Four Hour Reporting

- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- b. The following shall be included as information which must be reported within 24 hours:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and,
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (Industrial permits only) of the permit to be reported within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed in Part III.D.7.

9. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Changes in Discharges of Toxic Substances (Applicable to Industrial Permits Only)

The permittee shall notify the Director as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR Part 122.42(a) (1).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR Part 122.42(a) (2).

11. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified.

- a. All permit applications shall be signed as follows:

- (1) For a corporation - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - (b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
- (3) For a municipality, State, Federal, or other public agency - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

- b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or

position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

- c. **Certification.** Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

12. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

SECTION E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. Criminal

a. Negligent Violations

The Act provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. Knowing Violations

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. Knowing Endangerment

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. False Statements

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate,

any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. Class I Penalty

Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

b. Class II Penalty

Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

SECTION F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. "Act" means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. "Administrator" means the Administrator of the U.S. Environmental Protection Agency.
3. "Applicable effluent standards and limitations" means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. "Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to him/her, pursuant to Section 303(a) of the Act, or (b) promulgated by the Administrator pursuant to Section 303(b) or 303(c) of the Act.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant

- discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. "Daily Average" (also known as monthly average) discharge limitation means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month.
 8. "Daily Maximum" discharge limitation means the highest allowable "daily discharge" during the calendar month.
 9. "Environmental Protection Agency" means the U.S. Environmental Protection Agency.
 10. "Grab sample" means an individual sample collected in less than 15 minutes.
 11. "Industrial user" means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
 12. "National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
 13. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 14. "Sewage sludge" means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff, that are discharged to or otherwise enter a publicly owned treatment works.
 15. "Treatment works" means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
 16. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 17. For fecal coliform bacteria a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
 18. The term "MGD" shall mean million gallons per day.
 19. The term "mg/l" shall mean milligrams per liter or parts per million (ppm).
 20. The term "ug/l" shall mean micrograms per liter or parts per billion (ppb).
 21. **Municipal Terms:**
 - a. "7-day average", other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - b. "30-day average", other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
 - c. "24-hour composite sample" consists of a minimum of 12 effluent portions collected at equal time intervals and combined proportional to flow or a sample collected proportional to flow over the 24-hour period where no single aliquot represents more than 4 percent of the expected average daily flow.
 - d. "12-hour composite sample" consists of 12 effluent portions collected no closer together than one hour and composited according to flow.
 - e. "6-hour composite sample" consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
 - f. "3-hour composite sample" consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

rev. 10/1/87



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

OFFICE OF THE
REGIONAL ADMINISTRATOR

CERTIFIED MAIL NO. P243065627
In Reply Refer to W-5-1

NOV 30 1993

Jack E. Davis, Director
Fossil Generation
Arizona Public Service Company
P.O. Box 53999
Phoenix, AZ 85072

**Subject: Transmittal of National Pollutant Discharge Elimination
System Permit - Four Corners Power Plant**

Dear Mr. Davis:

Enclosed find National Pollutant Discharge Elimination System ("NPDES") Permit No. NM0000019 that is issued to Arizona Public Service Company ("APS") for discharges at the Four Corners Power Plant.

The staff at the Environmental Protection Agency ("EPA") has reviewed the NPDES permit application for the Four Corners Power Plant and has prepared a draft permit in accordance with the Clean Water Act. The EPA also published a public notice of its tentative decision to issue this permit to the discharger on September 10, 1993. EPA met with representatives of APS on September 20, 1993 to discuss comments to the draft permit. After considering the expressed views of all interested persons and certification of the draft permit, the EPA, pursuant to 40 CFR 124, has prepared a final permit which does not differ significantly from the draft permit.

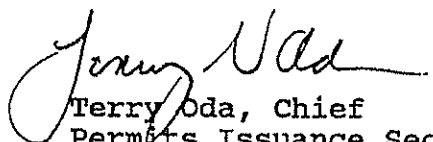
The NPDES permit is hereby issued upon the date of signature and shall become effective on December 31, 1993 unless there is a written request for an evidentiary hearing. Pursuant to 40 CFR.74, requests for an evidentiary hearing must state each of the legal or factual questions alleged to be at issue and must demonstrate one of the following for each issue being raised in the hearing request; (1) that the issue was raised during the public comment period, or (2) that the requester could not have reasonable anticipated the relevance or materiality of the issue during the comment period.

Any request for an evidentiary hearing must be submitted by December 31, 1993 to Rita Wong (W-5-1) at the above address.

The EPA will routinely deny any evidentiary hearing request which is postmarked later than December 31, 1993. Also, the EPA will routinely deny any evidentiary hearing request which raises only legal issues. Any denial of request for an evidentiary hearing may be appealed to the Administrator within 30 days from the date of notice of the denial. The requestor must exhaust all administrative review before seeking judicial review.

If you have any questions regarding the enclosed permit, please contact Helen McKinley at (415) 744-1889.

Sincerely,



Terry Oda, Chief
Permits Issuance Section

Enclosure

cc: Patrick Antonio, Navajo EPA
Sadie Hoskie, Navajo EPA w/out enclosure

Permit No. NM0000019

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the "Act"),

Arizona Public Service Company
P.O. Box 53999
Phoenix, Arizona 85072-3999

is authorized to discharge from Four Corners Power Plant, Fruitland, San Juan County, New Mexico, 36 degrees 42 minutes north latitude and 108 degrees 28 minutes west longitude.

to receiving waters named Morgan Lake, then to the Chaco River, and then to Segment 2-401 of the San Juan River basin

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II hereof.

This permit shall become effective on DEC 31 1993.

This permit and the authorization to discharge shall expire at midnight, December 31, 1998.

Signed this 30th day of November, 1993.

For the Regional Administrator

Alejo Orans, Deputy
for Harry Seraydarian
Director
Water Management Division
EPA, Region 9

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PART I

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. OUTFALL 001 - Cooling Pond Discharge

During the period beginning on the effective date of this permit and lasting through date of expiration, the permittee is authorized to discharge from outfall number 001.

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected and flow measurements taken at the point where Morgan Lake blowdown water discharges through the existing parshall flume.

DISCHARGE LIMITATIONS

<u>Effluent Characteristic</u>	<u>Average Monthly</u>	<u>Daily Max.</u>
Flow	--	14.7 MGD
Temperature	32.2°C ¹	35.0°C
pH	not less than 6.0 or greater than 9.0	

MONITORING REQUIREMENTS

<u>Effluent Characteristic</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow ²	1/week	Staff gage
Temperature	Continuous	Recorder
Total Dissolved Solids	1/month ³	Grab
pH	1/month	Grab

Footnotes:

- ~~1. Instantaneous maximum~~ *see attached 4/26/94 letter of correction*
2. Report both average and maximum daily flows.
3. During Periods of Discharge. Total Dissolved Solids shall be determined by the "calculation method" (sum of constituents) as described in the 1979 edition of "Techniques of Water Resources Investigations of the United States Geological Survey - Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," or any subsequent editions.

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2. INTERNAL OUTFALL 01A - Condenser Cooling water Discharge

During the period beginning on the effective date of this permit and lasting through date of expiration, the permittee is authorized to discharge from internal outfall number 01A.

Such discharges shall be limited and monitored by the permittee as specified below. Stormwater runoff is included in this discharge. Samples shall be collected at the point where condenser cooling water from units 1, 2, 3, 4 and 5 is discharged from the circulating water canal to Morgan Lake.

DISCHARGE LIMITATIONS

<u>Effluent Characteristic</u>	<u>Daily Ave.</u>	<u>Daily Max.</u>
Total Residual Chlorine ¹	--	952 lb/day 0.2 mg/l
pH	not less than 6.0 or greater than 9.0	

MONITORING REQUIREMENTS

<u>Effluent Characteristic</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	1/week	Calculation ²
Total Residual Chlorine ³	1/week	Grab
pH	1/week	Grab

Footnotes:

1. As defined in 40 CFR 423.11. Limits for total residual chlorine are set in accordance with 40 CFR 423.13(b)(1) for once through cooling water.

01A Discharges are further restricted by 40 CFR 423.13(2) in that total residual chlorine may not be discharged from any single generating unit for more than two hours per day. Simultaneous multi-unit chlorination is permitted.

2. Based upon pumping records.
3. Samples shall be collected during periods of chlorination. Permittee shall report both concentration and mass loading values.

3. INTERNAL OUTFALL 01E - Combined Waste Treatment Pond Discharge

During the period beginning on the effective date of this

permit and lasting through date of expiration, the permittee is authorized to discharge from internal outfall number 01E.

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with any other waste source stream and/or release to the circulating water canal.

DISCHARGE LIMITATIONS

<u>Effluent Characteristic</u>	<u>Daily Ave.</u>	<u>Daily Max.</u>
Total Suspended Solids	30 mg/l	100 mg/l
Oil & Grease	15 mg/l	20 mg/l
pH	not less than 6.0 or greater than 9.0	

MONITORING REQUIREMENTS

<u>Effluent Characteristic</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	Daily	Estimate
Total Suspended Solids	1/week	Grab
Oil & Grease	1/week	Grab
pH	1/week	Grab

4. INTERNAL OUTFALL 01B - Chemical Metal Cleaning Wastewater¹

During the period beginning on the effective date of this permit and lasting through date of expiration, the permittee is authorized to discharge from internal outfall number 01B.

Such discharges shall be limited and monitored by the permittee as specified below. Samples shall be collected prior to mixing with any other waste source stream and/or discharge to the circulating water canal.

DISCHARGE LIMITATIONS

<u>Effluent Characteristic</u>	<u>Daily Ave.</u>	<u>Daily Max.</u>
Total Suspended Solids	30 mg/l.	100 mg/l
Oil & Grease	15 mg/l	20 mg/l
Iron, total	1 mg/l	1 mg/l
Copper, total	1 mg/l	1 mg/l
pH	not less than 6.0 or greater than 9.0	

MONITORING REQUIREMENTS

<u>Effluent Characteristic</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	1/day	Estimate
Total Suspended Solids	1/occurrence	Grab
Oil & Grease	1/occurrence	Grab
Iron, total	1/occurrence	Grab
Copper, total	1/occurrence	Grab
pH	1/occurrence	Grab

Footnotes:

1. Defined in 40 CFR 423.11.

SECTION B. GENERAL DISCHARGE SPECIFICATIONS

1. PCB Fluids - There shall be no discharge of polychlorinated biphenyl (PCB) fluids.
2. Floating Solids - Discharge waters shall be free of scum and other floating materials in other than trace amounts.
3. Surface Seepage - Surface seepage intercept systems shall be constructed and operated for existing and future unlined ash ponds. Water collected by these intercept systems shall be returned to the ash ponds, or evaporation ponds.

SECTION C. REPORTING

Discharge data obtained during the previous month shall be summarized and reported monthly. Monthly data should be submitted no later than the 15th day of the following month. Signed copies of these and all other reports required herein shall be submitted to the Regional Administrator at the following address:

Regional Administrator
Environmental Protection Agency
Region 9, Attn: W-5-3
75 Hawthorne Street
San Francisco, CA 94105

PART III STANDARD CONDITIONS FOR NPDES PERMITS

SECTION A. GENERAL CONDITIONS

1. Introduction

In accordance with the provisions of 40 CFR Part 122.41, et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable CFR regulations.

2. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Toxic Pollutants

- a. Notwithstanding Part III.A.5, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.
- b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated at 40 CFR Part 122.6 and any subsequent amendments.

5. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

7. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

8. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act or applicable CFR regulations which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

9. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

10. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

11. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

SECTION B. PROPER OPERATION AND MAINTENANCE

1. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain

all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. Bypass of Treatment Facilities

a. **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.b and 4.c.

b. Notice

- (1) **Anticipated bypass.** If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) **Unanticipated bypass.** The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part III.D.7.

c. Prohibition of bypass

- (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (c) The permittee submitted notices as required by Part III.B.4.b.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed at Part III.B.4.c(1).

5. Upset Conditions

a. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part III.B.5.b are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required by Part III.D.7; and,
- (4) The permittee complied with any remedial measures required by Part III.B.2.

c. **Burden of proof.** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

SECTION C. MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the law to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

4. Record Contents

Records of monitoring information shall include:

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- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

6. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ± 10% from true discharge rates throughout the range of expected discharge volumes. Guidance in selection, installation, calibration, and operation of acceptable flow measurement devices can be obtained from the following references:

- a. "A Guide to Methods and Standards for the Measurement of Water Flow", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 97 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by SD Catalog No. C15.10-421).
- b. "Water Measurement Manual", U.S. Department of Interior, Bureau of Reclamation, Second Edition, Revised Reprint, 1974, 327 pp. (Available from the U.S. Government Printing Office, Washington, D.C. 20402. Order by Catalog No. 127.19/2-W29/2, Stock No. S/N24003-0027).
- c. "Flow Measurement in Open Channels and Closed Conduits", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Available in paper copy or microfiche from National Technical Information Service (NTIS), Springfield, VA 22151. Order by NTIS No. PB-273535/35T).
- d. "NPDES Compliance Sampling Manual", U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-91, 1977, 140 pp. (Available from the General Services Administration (GSA), Centralized Mailing Lists Service, Building 41, Denver Federal Center, Denver, CO 80225).

meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,

- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR Part 122.42(a) (3).

b. Municipal Permits

Any change in the facility discharge (including the introduction of any new source or significant discharge or significant changes in the quantity or quality of existing discharges of pollutants) must be reported to the permitting authority. In no case are any new connections, increased flows, or significant changes in influent quality permitted that will cause violation of the effluent limitations specified herein.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Discharge Monitoring Reports

Monitoring results must be reported on Discharge Monitoring Report (DMR) Form EPA No. 3320-1 in accordance with the "General Instructions" provided on the form. The permittee shall submit the original DMR to the EPA with copies of the DMR to the State Agency. Duplicate copies of the DMRs, signed and certified as required by Part III.D. 11 and all other reports required by Part III.D shall be submitted to the Director and to the State (if applicable) at the following address(es):

Water Management Division
Enforcement Branch (6W-E)
U.S. Environmental Protection
Agency, Region VI
First Interstate Bank Tower
1445 Ross Avenue
Dallas, Texas 75202-2733

Oklahoma (Industrial Permits)
Director
Oklahoma Water Resources Board
P.O. Box 53585
Oklahoma City, Oklahoma 73152

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

a. Industrial Permits

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (1) The alteration or addition to a permitted facility may

New Mexico:

Program Manager
Surface Water Section
Surface Water Quality Bureau
New Mexico Environmental
Improvement Division
P.O. Box 968
Santa Fe, New Mexico 87504-0968

Louisiana:

Assistant Secretary for Water
Water Pollution Control
Division
Louisiana Department of
Environmental Quality
P.O. Box 44091
Baton Rouge, Louisiana 70804-4091

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5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased monitoring frequency shall also be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

7. Twenty-Four Hour Reporting

- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- b. The following shall be included as information which must be reported within 24 hours:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and,
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II (Industrial permits only) of the permit to be reported within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts III.D.4 and D.7 and Part I.B (for industrial permits only) at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.7.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Changes in Discharges of Toxic Substances (Applicable to Industrial Permits Only)

The permittee shall notify the Director as soon as it knows or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR Part 122.42(a) (1).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR Part 122.42(a) (2).

11. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified.

- a. All permit applications shall be signed as follows:

- (1) For a corporation - by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - (b) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
- (3) For a municipality, State, Federal, or other public agency - by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

- b. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual to

position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Director.

- c. **Certification.** Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

12. Availability of Reports

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

SECTION E. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

1. Criminal

a. Negligent Violations

The Act provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. Knowing Violations

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. Knowing Endangerment

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. False Statements

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate,

any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act)

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

a. Class I Penalty

Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

b. Class II Penalty

Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

SECTION F. DEFINITIONS

All definitions contained in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions of words or phrases used in this permit are as follows:

1. "Act" means the Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.
2. "Administrator" means the Administrator of the U.S. Environmental Protection Agency.
3. "Applicable effluent standards and limitations" means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
4. "Applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to him/her, pursuant to Section 303(a) of the Act, or (b) promulgated by the Administrator pursuant to Section 303(b) or 303(c) of the Act.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant

- discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that sampling day.
7. "Daily Average" (also known as monthly average) discharge limitation means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month. When the permit establishes daily average concentration effluent limitations or conditions, the daily average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month.
 8. "Daily Maximum" discharge limitation means the highest allowable "daily discharge" during the calendar month.
 9. "Environmental Protection Agency" means the U.S. Environmental Protection Agency.
 10. "Grab sample" means an individual sample collected in less than 15 minutes.
 11. "Industrial user" means a nondomestic discharger, as identified in 40 CFR 403, introducing pollutants to a publicly owned treatment works.
 12. "National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
 13. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 14. "Sewage sludge" means the solids, residues, and precipitates separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff, that are discharged to or otherwise enter a publicly owned treatment works.
 15. "Treatment works" means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and their appurtenances, extension, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
 16. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 17. For fecal coliform bacteria a sample consists of one effluent grab portion collected during a 24-hour period at peak loads.
 18. The term "MGD" shall mean million gallons per day.
 19. The term "mg/l" shall mean milligrams per liter or parts per million (ppm).
 20. The term "ug/l" shall mean micrograms per liter or parts per billion (ppb).
 21. Municipal Terms:
 - a. "7-day average", other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - b. "30-day average", other than for fecal coliform bacteria, is the arithmetic mean of the daily values for all effluent samples collected during a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. The 30-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.
 - c. "24-hour composite sample" consists of a minimum of 12 effluent portions collected at equal time intervals and combined proportional to flow or a sample collected proportional to flow over the 24-hour period where no single aliquot represents more than 4 percent of the expected average daily flow.
 - d. "12-hour composite sample" consists of 12 effluent portions collected no closer together than one hour and composited according to flow.
 - e. "6-hour composite sample" consists of six effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.
 - f. "3-hour composite sample" consists of three effluent portions collected no closer together than one hour (with the first portion collected no earlier than 10:00 a.m.) and composited according to flow.

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Tom Crossman Power Plant NM 0000019

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